IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8698 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KAILASHKUNWARBA KIRITSINH SOLANKI - Petitioner(s)
Versus
THE STATE OF GUJARAT & 4 - Respondent(s)

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Appearance :
MR BM MANGUKIYA for Petitioner(s) : 1,
MS KIRAN PANDEY, AGP for Respondent(s) : 1,
DS AFF.NOT FILED (N) for Respondent(s) : 1 - 5.

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 18/04/2007

ORAL JUDGMENT

Rule. Ms. Kiran Pandey, Ld. AGP waives service of rule on behalf of respondents.

The only grievance that is made in this petition is that while passing order dated 21/3/2007 the petitioner has not been heard. The said order

has been passed by respondent no. 2 on the application submitted by the petitioner praying for stay of the implementation of order cancelling the licence to have fair price shop. According to Ms. Bela Prajapati, learned advocate appearing for Mr. BM Mangukiya for the petitioner, the order is passed without application of mind, it is non-speaking order and it is passed in violation of principles of natural justice. However, Ms. Pandey, Ld. AGP supported the said order.

2. The text of the order itself shows that the petitioner is not heard. Further respondent no. 2 has not assigned any reason why order of cancellation of licence is not required to be stayed. It also appears that when the revision application is still to be heard, normally such proceedings when entertained on merits, cannot be rendered infructuous by implementing the order which is under challenge. In view of the same, order at Annexure-P dated 21/3/2007 passed by respondent no. 2 is required to be quashed and set aside and it is hereby quashed and set aside. Respondent no. 2 is directed to grant hearing and pass appropriate order on stay application of the petitioner by giving adequate reasons. The exercise is to be completed on or before 18th May, 2007. Till such time the respondents are directed not to implement the order of cancellation of licence, if not already implemented. Petition is allowed. Rule is made absolute with no order as to costs. DSP.

[Akshay H Mehta, J.]

* Pansala.